

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, Colorado 80537-0599

ATTORNEY DOCKET NO. 10031095-1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bill J. Peck

Serial No.: 10/828,357

Examiner: Dan Sung C. Cho

Filing Date: April 19, 2004

Group Art Unit: 1634

Title: CHEMICAL ARRAYS AND METHODS OF PRODUCING THE SAME

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

<input checked="" type="checkbox"/> Response/Amendment	<input type="checkbox"/> Petition to extend time to respond
<input type="checkbox"/> New fee as calculated below	<input type="checkbox"/> Supplemental Declaration
<input checked="" type="checkbox"/> No additional fee (Address envelope to "Mail Stop Amendments")	
<input type="checkbox"/> Other:	(Fee \$ <u> </u>)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 ST MONTH 120.00 <input type="checkbox"/>	2 ND MONTH 450.00 <input type="checkbox"/>	3 RD MONTH 1020.00 <input type="checkbox"/>	4 TH MONTH 1590.00 <input type="checkbox"/>		\$ 0
					OTHER FEES	\$ 0
						TOTAL ADDITIONAL FEE FOR THIS AMENDMENT
						\$ 0

Charge \$0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.2.5. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Bill J. Peck

By

Bret E. Field for Timothy Joyce
Attorney/Agent for Applicant(s)

Reg. No. 37,620

Date: 11-09-2006

Telephone No. (440) 553-2510

I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on
the date shown below:

571-273-8300

Date of facsimile: 11-09-2006

Typed Name: Donna Macedo

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Rev 06/05 (TransAnd)

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VIA FACSIMILE		
RESPONSE TO RESTRICTION REQUIREMENT	Attorney Docket Confirmation No.	10031095-1 4887
Address to: Commissioner for Patents P.O. Box 1450 Alexandria VA 22313-1450	First Named Inventor	Bill J. Peck
	Application Number	10/828,357
	Filing Date	April 19, 2004
	Group Art Unit	1634
	Examiner Name	Dan Sung C. Cho
	Title	Chemical Arrays and Methods of Producing the Same

Dear Sir:

This communication is responsive to the office communication dated October 11, 2006.

In the above referenced office communication, the Examiner imposed a restriction requirement, requiring the election of the claims of either:

Group I, i.e., Claim 33;

Group II, i.e., Claims 25-28;

Group III, i.e., Claims 1-24;

Group IV, i.e., Claims 30-32; or

Group V, i.e., Claim 29;

for further prosecution in this application.

The Applicants hereby elect Group III with traverse.

The Applicants also respectfully urge the Examiner to rejoin the claims of Groups I-II and IV-V with the elected claims of Group III for examination in this application for the following reasons.

The MPEP allows an Examiner to examine otherwise patentably distinct sets of claims if to do so would not impose an undue burden on the Examiner. M.P.E.P. § 8.03 states that:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Agilent Ref: 10031095-1
United States Application Serial No. 10/828,357

In the present case, elements of the claims of Group III are found in the remaining claims of the non-elected groups. For example, Claims 25-28 of non-elected Group II are directed to an array assay that uses an array that is made according to a method of the claims of elected Group III. As such, it is believed that the search for the claims of Group III should find any relevant prior art relating to the claims of the remaining non-elected Groups.

Accordingly, little, if any, additional searching should be required for the claims of the non-elected Groups, and therefore the examination of the claims of the non-elected Groups together with the claims of elected Group III should impose little, if any, additional burden on the Examiner.

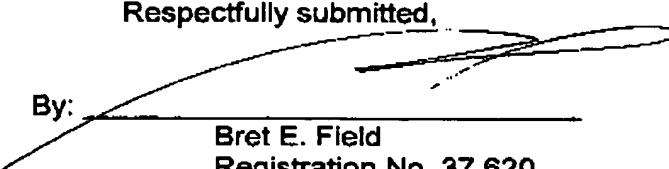
As such, examining the claims of the non-elected groups and the claims of elected Group III together in the present application clearly does not impose an undue or serious burden on the Examiner. In the absence of such an undue or serious burden, the Examiner is clearly instructed by the MPEP to examine the entire application. Therefore, the Examiner is respectfully requested to rejoin the claims of the non-elected Groups with the claims of elected Group III and to examine all the claims together in the present application.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

Date: November 9, 2006

By:


Bret E. Field
Registration No. 37,620

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